

## AFFIDAVIT OF “DEPENDENCY” FOR TAX PURPOSES

Whether or not your Domestic Partner qualifies as a dependent for tax purposes, this form must be submitted to the EUTF before your Domestic Partner can be enrolled. You will sign this form in one of two places, depending on your Domestic Partner's status.

**EXPLANATION:** Under Section 152(a) of the Internal Revenue Code, the term “dependent” means, in relevant part, an individual who, for the taxable year of the taxpayer, has as his or her principal place of abode the home of the taxpayer and is a member of the taxpayer’s household.

We, \_\_\_\_\_ (the “Employee-Beneficiary”) and \_\_\_\_\_  
(the “Domestic Partner”) being duly sworn, say:

1. For the current taxable year of the Employee-Beneficiary, over half of the Domestic Partner’s support is received from the Employee-Beneficiary.
2. For the current taxable year of the Employee-Beneficiary, the Domestic Partner has as his or her principal place of abode the home of the Employee-Beneficiary.
3. For the current taxable year of the Employee-Beneficiary, the Domestic partner is a member of the Employee-Beneficiary’s household.
4. The Domestic Partner is a citizen of \_\_\_\_\_.  
(Country)

If the answer above was United States, skip to Part 5. If not, answer the following questions:

The Domestic Partner is currently a “resident” of \_\_\_\_\_.  
(Country)

The Domestic Partner is currently lawfully present in the United States under the following type of visa: \_\_\_\_\_.

**EXPLANATION:** Under Section 152(b)(3) of the Internal Revenue Code, a “dependent” must be either (1) a citizen or national of the United States or (2) a “resident” of the United States or of a country contiguous to the United States. Under Section 7701 (b)(3) of the Internal Revenue Code, an alien is treated as a “resident” of the United States if and only if such individual is (1) lawfully admitted for permanent residence in the United States or (2) meets a “substantial presence” test. The following individuals are not “residents” of the United States for tax purposes and, thus can never be “dependents” for tax purposes:

- A. A foreign government-related individual temporarily present in the United States on a diplomatic or consular visa, a full-time employee of an International organization, or a family member of such person.
- B. A teacher or trainee temporarily present in the United States.
- C. A student temporarily present in the United States.
- D. A professional athlete temporarily in the United States to compete in a charitable sports event.



If the type of visa is “permanent resident” skip to Part 5. If not, answer the following questions.

The actual number of days the Domestic Partner has been lawfully present in the United States during the current year and the 2 preceding years is:

\_\_\_\_\_ (Number of days in USA, current year)

\_\_\_\_\_ (Number of days in USA, 1<sup>st</sup> preceding year)

\_\_\_\_\_ (Number of days in USA, 2<sup>nd</sup> preceding year)

**EXPLANATION:** Section 152 (b)(5) of the Internal Revenue Code provides that an individual is not a member of the taxpayer’s household if, at any time during the taxable year of the taxpayer, the relationship between such individual and the taxpayer is a violation of local law.

5. Our state of permanent residence for purposes of the test required by Section 152 (b)(5) of the Internal Revenue Code is \_\_\_\_\_.  
(State)
6. We understand that if the Domestic Partner is not a “dependent” of the Employee-Beneficiary, we may incur various tax liabilities in connection with obtaining health care coverage for the Domestic Partner. We therefore agree to notify the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) within 10 days if there is any change in the Domestic Partner’s status as a “dependent” of the Employee-Beneficiary. In addition, we shall indemnify and hold the EUTF harmless for any taxes, tax related penalties, or interest imposed upon the EUTF as a result of providing Domestic Partner coverage to us, including any taxes, tax related penalties, or interest imposed as a result of our taking the position the Domestic Partner is a “dependent” of the Employee-Beneficiary for tax purposes.
7. We agree that each of us is jointly and individually responsible for reimbursement of benefits and expenses, including interest, attorney’s fees, and collection costs as a result of any false or misleading statement contained in this affidavit and related applications and submissions to the EUTF.

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If your dependent is not a qualified dependent, STOP HERE, print your name, sign and date. Return form to your employer’s personnel office. If your dependent is a qualified dependent, please continue to next page.

I have read this document and have determined that my domestic partner is not qualified as a dependent as described above.

Name (Print): \_\_\_\_\_

Signature \_\_\_\_\_ date \_\_\_\_\_

This section to be completed in the presence of a Notary

Each of us affirms under penalty of perjury under the laws of the State of Hawaii that we are the respective undersigned signatories, the statements in this affidavit are true to the best of our knowledge, and this affidavit and related application instruments are the free act and deed of each of us.

\_\_\_\_\_  
Employee-Beneficiary's Signature

\_\_\_\_\_  
Domestic Partner's Signature

\_\_\_\_\_  
Print Employee-Beneficiary's  
Name

\_\_\_\_\_  
Print Domestic Partner's Name

\_\_\_\_\_  
Employee-Beneficiary SS#

\_\_\_\_\_  
Domestic Partner's SS#

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to before me  
This \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Subscribed and sworn to before me  
This \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public - State of Hawaii

\_\_\_\_\_  
Notary Public - State of Hawaii

My commission expires: \_\_\_\_\_

My commission expires: \_\_\_\_\_